

Mark Kirstein

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PENNSYLVANIA

THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS OF
ALLEGHENY HEALTH, EDUCATION
& RESEARCH FOUNDATION,
Plaintiff,

vs.
PRICEWATERHOUSECOOPERS,
LLP,
Defendant.

Civil Action
No. 00-684

Continued Videotaped Deposition of
MARK D. KIRSTEIN, called for examination under
the Applicable Rules of Federal Civil
Procedure, taken before me, Michele E. Eddy, a
Registered Professional Reporter and Notary
Public in and for the State of Ohio, pursuant
to notice and stipulations of counsel, at the
offices of Jones Day, 222 East 41st Street,
Suite 400, New York, New York, on Thursday, the
13th day of May, 2004, at 8:30 a.m.

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| 1 | substantive review role for all areas at the | | 1 consolidated audit? |
| 2 | managerial level or manager level for fiscal | | 2 A. You mean in '97 AHERF would have |
| 3 | year 1997? | | 3 one audit for all of AHERF? Yes. |
| 4 | MR. RYAN: Objection to form. | | 4 Q. In connection with that, do you |
| 5 | A. From a manager's perspective, she | 08:55:32 | 5 recall issues arising with respect to the 08:58:21 |
| 6 | would be the person that would do that, yes. | | 6 debt-holders for the various obligated groups? |
| 7 | Q. I think you've told us you don't | | 7 A. What sort of issues? |
| 8 | remember AHERF moving to a new bad debt | | 8 Q. Issues about whether a consolidated |
| 9 | reserving methodology for fiscal year 1997, so | | 9 audit at AHERF complied with the terms of the |
| 10 | I think I can anticipate the answer to this | 08:55:51 | 10 debt instruments at the various obligated 08:58:40 |
| 11 | question, but forgive me. Did you ever learn | | 11 groups. |
| 12 | that anyone at AHERF was involved in the | | 12 A. What I recall is management |
| 13 | process of developing a new methodology for | | 13 asked -- management engaged in dialogue with us |
| 14 | fiscal year 1997, anyone internal or employed | | 14 in the planning process in the -- for fiscal |
| 15 | by AHERF, internal to or employed by AHERF? | 08:56:06 | 15 '97 about doing a consolidated audit. 08:58:57 |
| 16 | A. I don't recall hearing that. | | 16 Coming off of '96 where we had just |
| 17 | Q. Do you recall learning that either | | 17 done the DVOG audit, and I think there was an |
| 18 | Mr. Cancelmi or those at the patient financial | | 18 AGH obligated group audit, what I recall is |
| 19 | services group were involved in such an | | 19 that Coopers & Lybrand, we had said to |
| 20 | endeavor? 08:56:19 | | 20 management, we can do whatever audit you want 08:59:10 |
| 21 | A. No, sir. | | 21 us to do, you can engage us for the scope, but |
| 22 | Q. Do you have a view as you sit here | | 22 you need -- you, AHERF, need to consult with |
| 23 | today about who would have been better suited | | 23 your debt-holders and your legal counsel |
| 24 | to prepare a new or a methodology for fiscal | | 24 eventually to ensure that whatever audit report |
| 25 | year 1997 between Mr. Cancelmi and those in | 08:56:32 | 25 we issue will be sufficient for your debt 08:59:26 |
| | | Page 585 | Page 587 |
| 1 | his -- on his staff or those at the patient | | 1 purposes. |
| 2 | financial services group? | | 2 Q. Do you recall with whom at AHERF |
| 3 | MR. RYAN: Objection. Vague. Lack | | 3 you may have had any such discussions? |
| 4 | of foundation. | | 4 A. It's the same general group I've |
| 5 | A. What do you mean by better suited? 08:56:42 | | 5 given you the last two days. I mean, finance 08:59:40 |
| 6 | Q. I would just ask you if you had a | | 6 folks. I don't remember specific discussion. |
| 7 | view. | | 7 But planning for '97 was pretty much with Dan |
| 8 | A. I put everyone -- you talked about | | 8 Cancelmi, Steve Spargo, Al Adamczak. |
| 9 | AHERF people. It's AHERF's financial | | 9 Q. Do you recall that Mr. Spargo left |
| 10 | statements and AHERF's system of internal | 08:56:51 | 10 the organization sometime in 1997? 09:00:05 |
| 11 | controls. I don't know who's better suited. I | | 11 A. Yes, sometime early during the |
| 12 | don't know what you mean by that. But if they | | 12 planning stage. I don't remember the exact |
| 13 | were developing a new process, I would assume | | 13 date. |
| 14 | they would do whatever reviews and dialogue and | | 14 Q. Do you recall who assumed his |
| 15 | discussions and consultation they felt 08:57:03 | | 15 responsibilities? 09:00:14 |
| 16 | necessary amongst their own people. | | 16 A. I believe Al Adamczak, but I don't |
| 17 | Q. Do you recall any discussions with | | 17 know if that was a one-for-one assumption of |
| 18 | anyone at AHERF about, or at Coopers & Lybrand | | 18 responsibilities. I don't know everything that |
| 19 | about a proposed or implemented new bad debt | | 19 Steve did and everything that Mr. Al did. |
| 20 | reserve methodology for fiscal year '97? 08:57:15 | | 20 Q. The reason I raise it, when Mr. 09:00:28 |
| 21 | A. No, I have no recollection. | | 21 Spargo left, you didn't start communicating |
| 22 | Q. You recall, however, that for | | 22 with somebody new; the group with whom you |
| 23 | fiscal year -- let me withdraw that. | | 23 primarily communicated just got one person |
| 24 | You recall, Mr. Kirstein, that for | | 24 smaller; is that fair to say? |
| 25 | fiscal year 1997, AHERF was moving to a | 08:58:02 | 25 A. Yes. 09:00:39 |

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| 1 | Q. There wasn't a replacement for Mr. | | 1 Q. Yes, it is an AHERF audit update, |
| 2 | Spargo, whose name we haven't mentioned? | | 2 August 15, 1997, is that right? |
| 3 | A. No, not that I'm aware of. | | 3 A. Yes. |
| 4 | Q. Mr. Kirstein, I'm going to hand you | | 4 Q. Does it contain your handwriting? |
| 5 | a rather large exhibit and ask you not to be | 09:00:51 | 5 A. Yes, it does. 09:02:40 |
| 6 | afraid. It is an exhibit you've seen before in | | 6 Q. I'm going to refer you in |
| 7 | the SEC proceeding and I think we're going to | | 7 particular -- well, take a moment to read the |
| 8 | leave it just like it was there because the | | 8 document and your notes. |
| 9 | copy is superior to our copies of some of the | | 9 A. Great, thanks. |
| 10 | documents, and we will flip back and forth in | 09:01:05 | 10 Okay. 09:04:01 |
| 11 | it from time to time, but we are going to have | | 11 Q. The notes are all yours in your |
| 12 | to look at the whole thing. | | 12 hand? |
| 13 | A. Okay. | | 13 A. I believe so, yes. |
| 14 | Q. It is -- I'm going to need to mark | 09:01:12 | 14 Q. I'm going to refer you to the point |
| 15 | that. I apologize. | | 15 with the black diamond next to it which appears 09:04:09 |
| 16 | It is Exhibit 377 in the SEC | | 16 about a quarter of the way down the page headed |
| 17 | proceeding, I believe, and we would like to | | 17 debt. |
| 18 | mark it in this case as exhibit next. | | 18 A. Okay. |
| 19 | MR. TORBORG: Spelled N E X T. | | 19 Q. And beneath that, the first |
| 20 | Q. And that number is 4403. 09:01:33 | | 20 subpoint reads, "Written representation from 09:04:19 |
| 21 | ----- | | 21 bondholders regarding financial statements," |
| 22 | (Thereupon, Deposition Exhibit 4403 | | 22 and then beneath that, "Need for individual |
| 23 | was marked for purposes of | | 23 compliance letters" with three question marks. |
| 24 | identification.) | 09:01:39 | 24 Do you see that? |
| 25 | ----- | | 25 A. Yes. 09:04:32 |
| | | Page 589 | Page 591 |
| 1 | Q. I will direct your attention | | 1 Q. What is the handwritten note that |
| 2 | obviously to a relative few pages in this | | 2 appears to have a line drawn to one or both of |
| 3 | document from time to time this afternoon -- | | 3 those subpoints? How does that read? |
| 4 | this morning. | | 4 A. It's only drawn to the -- looks -- |
| 5 | A. Okay. 09:01:53 | | 5 appears to be only drawn to the second bullet, 09:04:43 |
| 6 | Q. The first one today -- as you may | | 6 title, Need for Individual Compliance Letters. |
| 7 | recall, it is a combination of a number of | | 7 It says C&L to draft, and then, in parentheses, |
| 8 | documents, and I know not whether they are | | 8 Christa, Brian to research. |
| 9 | supposed to be related, but it was used in that | | 9 Q. Having had a chance to read the |
| 10 | prior deposition and really did have superior | 09:02:04 | 10 document, do you think, first of all, that you 09:04:55 |
| 11 | quality copies on a number of pages. | | 11 prepared this audit update? |
| 12 | I'm going to ask you to look at | | 12 A. The actual typed part? |
| 13 | page 28 now, which I think is a distinct | | 13 Q. Yes. |
| 14 | document within it. It's a single-page | | 14 A. I don't recall. |
| 15 | document. 09:02:19 | | 15 Q. Do you recall reviewing it before 09:05:02 |
| 16 | A. Where is the page number, bottom in | | 16 today? |
| 17 | the lower right? | | 17 A. Sometime during preparation. |
| 18 | Q. They are in the lower right-hand | | 18 Q. Do you recall, as you sit here |
| 19 | corner, yes. | | 19 today, what the handwritten note means to you, |
| 20 | They start with the prefix PwCK2 in | 09:02:23 | 20 or do you know what the handwritten note means? 09:05:13 |
| 21 | all instances, and, for our ease, I'm just | | 21 MR. RYAN: You mean that note that |
| 22 | going to refer to the last two digits on the | | 22 we've read? |
| 23 | far right side. | | 23 MR. JONES: Yes, the one he just |
| 24 | A. Hang on. Document dated August | | 24 read into the record. |
| 25 | 15th at the top? 09:02:33 | | 25 A. I don't recall writing it, but it 09:05:23 |

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| 1 | looks like it's just a note that says Christa | | 1 A. Not that I recall. |
| 2 | Porter and Brian Christian were to research | | 2 Q. Do you recall -- |
| 3 | something related to debt compliance letters. | | 3 A. And I assume in your last question |
| 4 | Q. Do you recall that there was an | 09:05:34 | 4 you is Mark Kirstein? |
| 5 | effort on Cooper & Lybrand's part to assist its | | 5 Q. Yes, I meant you personally. 09:07:41 |
| 6 | client in evaluating whether the consolidated | | 6 A. Not that I recall. |
| 7 | financial statements, audited financial | | 7 Q. Do you recall becoming aware of an |
| 8 | statements that were proposed for the fiscal | | 8 effort on the part of AHERF to secure written |
| 9 | year 1997 would comply with the various debt | | 9 representation from the various bondholders to |
| 10 | agreements of the various obligated groups? | 09:05:51 | 10 the effect that the consolidated financial 09:08:05 |
| 11 | THE WITNESS: Could you read that | | 11 statements that were proposed would comply with |
| 12 | again, please? | | 12 the terms of their debt agreements? |
| 13 | (Record read.) | | 13 MR. RYAN: Would you read that |
| 14 | A. I don't recall that. | | 14 again, please? |
| 15 | All I recall is what I said 09:06:19 | | 15 (Record read.) 09:08:07 |
| 16 | earlier, that C&L had told AHERF management | | 16 THE WITNESS: One more time, |
| 17 | that they need to consult with their legal | | 17 please? I'm sorry. |
| 18 | counsel and other appropriate parties for them | | 18 (Record read.) |
| 19 | to ensure that what we would audit and provide | | 19 A. I don't recall becoming aware of |
| 20 | to them would be sufficient for their debt 09:06:31 | | 20 that, but I also believe that Amy Frazier and 09:08:56 |
| 21 | purposes. | | 21 Bill Buettner addressed matters with management |
| 22 | Q. Did you ever learn that Mr. -- that | | 22 related to debt covenants and required |
| 23 | Brian or Christa, Mr. Christian or Miss Porter | | 23 communications that might be necessary with |
| 24 | ever did any research? | | 24 AHERF and their legal counsel. I think that |
| 25 | MR. RYAN: Objection. I think 09:06:41 | | 25 was Foley & Lardner. 09:09:12 |
| | | Page 593 | Page 595 |
| 1 | that's a misleading way of asking the question | | 1 Q. Regarding debt compliance matters |
| 2 | because the topic that they are supposed to | | 2 in connection with the audited financial |
| 3 | research is a completely different topic the | | 3 statements? |
| 4 | witness has indicated from the topic of the | | 4 A. Yes, it's my understanding, not |
| 5 | previous sentence. So I'll object. 09:06:54 | | 5 recollection, understanding some of that may be 09:09:20 |
| 6 | Q. Do you recall whether they did the | | 6 from prep. But I do recall Bill and Amy dealt |
| 7 | research? | | 7 with the debt covenant pieces as the audit |
| 8 | MR. RYAN: Objection. What | | 8 wrapped up, I recall that. |
| 9 | research? | | 9 Different times during preparation |
| 10 | MR. JONES: Referred to in his 09:07:02 | | 10 I've seen, you know, Amy and Bill I believe 09:09:32 |
| 11 | note. | | 11 worked with AHERF management and their counsel |
| 12 | A. I said I don't recall what research | | 12 Foley & Lardner to determine what was required |
| 13 | that would be, so I just don't know. | | 13 from a debt compliance perspective. |
| 14 | Q. You recall seeing no results of | | 14 Q. And in preparation you mean either |
| 15 | research that had anything to do with debt from 09:07:09 | | 15 in connection for this deposition or 09:09:48 |
| 16 | those two individuals, is that fair to say? | | 16 depositions in the SEC proceeding? |
| 17 | A. I don't recall. | | 17 A. Correct. |
| 18 | Q. Did you ever do any research | | 18 Q. Let me ask you to look at the last |
| 19 | yourself on the topic of debt at the various | | 19 diamond under debt on page 28 of Exhibit 4403. |
| 20 | obligated groups in connection with the | | 20 A. Okay. 09:10:05 |
| 21 | consolidated financial statements that were | | 21 Q. It says, "Potential debt covenant |
| 22 | proposed? | | 22 violations," and then it has three question |
| 23 | MR. RYAN: Objection to form. | | 23 marks next to it. Is that correct? |
| 24 | A. In '97? | 09:07:23 | 24 A. Yes. |
| 25 | Q. Yes, for fiscal year '97. 09:07:31 | | 25 Q. Do you recall becoming involved in 09:10:13 |

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|----|-------------------------------------------------|----------|----------|
| 1 | A. Yes. | | |
| 2 | Q. You have that before you again? | | |
| 3 | A. Yes. | | |
| 4 | Q. Do you recall reviewing the | | |
| 5 | provision I asked you to review, 440.6, on | 10:08:35 | |
| 6 | page -- the second page of the exhibit before | | |
| 7 | today? | | |
| 8 | A. No. | | |
| 9 | Q. I'm going to ask you now to look at | | |
| 10 | page 26 of Exhibit 58, which itself is the | 10:08:50 | |
| 11 | consolidated financial statements at AHERF for | | |
| 12 | the year-ending June 30, '97. | | |
| 13 | A. Okay. | | |
| 14 | Q. What did you understand in | | |
| 15 | connection with your audit work at AHERF the | 10:09:05 | |
| 16 | purpose of this report at page 26 to be? | | |
| 17 | A. It's a report that -- the language | | |
| 18 | pretty much does a nice job of explaining what | | |
| 19 | it is. It's a report that is on supplemental | | |
| 20 | information. So it's not a required part of | 10:09:34 | |
| 21 | the AHERF consolidated financial statements | | |
| 22 | that is informing whoever would be reading this | | |
| 23 | that it is supplemental information and it's | | |
| 24 | telling them that it's not -- that the audit | | |
| 25 | was not designed to audit necessarily the | 10:09:46 | |
| | | Page 629 | Page 631 |
| 1 | detailed information in there. But, as it | | |
| 2 | says, this is presented for additional | | |
| 3 | analysis, this does not require -- a required | | |
| 4 | part of the consolidated financial statements. | | |
| 5 | Then it goes on and does give an | 10:10:00 | |
| 6 | opinion or at least -- yeah, an opinion that | | |
| 7 | says, "The supplementary consolidated financial | | |
| 8 | information has been subjected to the auditing | | |
| 9 | procedures applied in audit of the consolidated | | |
| 10 | financials and in our opinion is fairly stated | 10:10:12 | |
| 11 | in all material respects in relation to the | | |
| 12 | consolidated financial statements taken as a | | |
| 13 | whole. | | |
| 14 | Q. Let me ask you to put that aside | | |
| 15 | for a moment. I'm going to ask you now about | 10:10:40 | |
| 16 | another set of issues related to your work on | | |
| 17 | the fiscal year 1997 audit at AHERF. In | | |
| 18 | particular, the transfer of certain reserves to | | |
| 19 | the Delaware Valley Obligated Group hospitals. | | |
| 20 | When I ask these next questions, | 10:11:02 | |
| 21 | I'm going to refer to the Graduate hospitals | | |
| 22 | and the Delaware Valley Obligated Group | | |
| 23 | hospitals. | | |
| 24 | You understand those to be two sets | | |
| 25 | of hospitals within the AHERF family in fiscal | 10:11:11 | |

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|-------------------------------------------------------------|----------|------------------------------------------------------------|
| 1 this early August time frame, 1997? | | 1 Frazier? |
| 2 A. That's my recollection. | | 2 A. Yes. |
| 3 Q. So you never learned of it in | | 3 Q. How is it that you learned of it, |
| 4 advance of believing that it had already | | 4 through a letter, through a face-to-face |
| 5 occurred, is that fair to say? 10:13:56 | | 5 conversation, otherwise? 10:16:13 |
| 6 THE WITNESS: Could you read that | | 6 A. No. I believe, as I recall, I |
| 7 one again? | | 7 believe Amy had received opening balance sheet |
| 8 (Record read.) | | 8 information related to Graduate or some sort of |
| 9 A. I don't understand that question. | | 9 information related to the Graduate |
| 10 Q. I'm sorry. 10:14:09 | | 10 acquisition. I was over at the Clark Building. 10:16:24 |
| 11 The first time you heard or had any | | 11 We talked earlier about my role being a |
| 12 awareness of transfers of purchase accounting | | 12 managerial role. At some point, I don't |
| 13 reserves established in connection with the | | 13 remember the date or time, Amy informed -- |
| 14 Graduate hospitals' acquisition by AHERF to the | | 14 discussed with me at that point that she had |
| 15 Delaware Valley Obligated Group hospitals' bad | 10:14:30 | 15 learned that they had transferred reserves to |
| 16 debt reserve was at a time when you believe the | | 16 Delaware Valley and that she was undertaking |
| 17 transfers had already been effected or had | | 17 audit procedures. |
| 18 occurred? | | 18 Q. Was anybody else present? |
| 19 A. I believe that's what happened. I | | 19 A. I don't recall. |
| 20 mean, in -- as I recall, I mean, I learned 10:14:48 | | 20 Q. What do you recall about the 10:16:43 |
| 21 early in the year-end phase of the audit that | | 21 conversation? |
| 22 C&L had received the purchase accounting | | 22 A. I don't recall specifics about the |
| 23 support, the support for the opening balance | | 23 conversation. |
| 24 sheet of Graduate hospitals. At that point | | 24 Q. Do you recall being concerned about |
| 25 that's when Amy Frazier learned that there was 10:15:02 | | 25 the fact that she had revealed to you? 10:16:51 |
| Page 633 | | Page 635 |
| 1 a transfer. | | 1 MR. RYAN: Objection to form. |
| 2 Q. And is it -- should I take from | | 2 A. No. |
| 3 that answer that you learned of this transfer | | 3 Q. Do you recall her expressing |
| 4 of reserves -- was the amount 50 million that | | 4 concern over the fact that she had revealed to |
| 5 you first heard of? 10:15:18 | | 5 you? 10:17:07 |
| 6 A. I don't specifically recall today | | 6 MR. RYAN: Objection. |
| 7 the amount, but that's consistent. | | 7 Q. The fact of the transfers. |
| 8 Q. That's consistent with what? | | 8 MR. RYAN: Objection to form. |
| 9 A. It's consistent generally with any | | 9 A. No. |
| 10 numbers that I've heard throughout, you know -- 10:15:25 | | 10 Q. Did either of you discuss whether 10:17:14 |
| 11 during the audit. I mean, I can't sit here | | 11 or not at this time the transfers would have |
| 12 today and say that day Amy told me it's 50 | | 12 been in compliance with Generally Accepted |
| 13 million dollars. | | 13 Accounting Principles? |
| 14 Q. You later learned that this | | 14 A. No. All I generally recall is |
| 15 purchase price accounting reserve amount that | | 15 learning that Amy learned of a transfer and 10:17:29 |
| 16 was transferred to bad debt reserve was in the | | 16 that she was going to undertake audit |
| 17 amount of 50 million dollars; is that fair to | | 17 procedures. You don't typically make judgments |
| 18 say? | | 18 and assessments of whether it's GAAP or |
| 19 A. Yes. | | 19 allowable or unallowable until you complete |
| 20 Q. Sometime after -- at or after early 10:15:44 | | 20 audit procedures. 10:17:41 |
| 21 August of 1997? | | 21 Q. Did you at that time form an |
| 22 A. Correct. | | 22 opinion that you should take this to |
| 23 Q. My question was, is it fair to say | | 23 Mr. Buettner promptly, this revelation? |
| 24 from your answer, an answer or two ago, that | | 24 MR. RYAN: Objection to form. |
| 25 you learned of this development from Miss 10:15:55 | | 25 A. I don't know what you mean by 10:17:52 |

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| 1 | Q. I would like to turn your attention | | 1 connection with your note taking practices? |
| 2 | to page 45 of the notes. At the top of the | | 2 A. It doesn't mean anything. |
| 3 | page there's a header that is underlined that | | 3 Q. Can you read the first two lines |
| 4 | reads, Dan C period, 4-18, and I think | | 4 beneath that line across the middle of the page |
| 5 | continues with the names Buettner slash | 10:32:47 | 5 for us? 10:34:41 |
| 6 | Frazier. Am I right? | | 6 A. 50 million dollar reserves at |
| 7 | A. Yes. | | 7 Graduate, will have 80 million dollars C slash |
| 8 | Q. Does having a chance to see that | | 8 O, charge-offs, in DV by 6-30-97, and then in |
| 9 | and looking at the notes refresh your | | 9 parens, gross number on A/R outpatient. |
| 10 | recollection that these are notes of a | 10:32:57 | 10 Q. The C/O means charge-offs? 10:35:03 |
| 11 | conversation among those three people and you? | | 11 A. I believe so, yes. |
| 12 | MR. RYAN: Objection. | | 12 Q. Does the DV mean the Delaware |
| 13 | A. I believe they're notes of a | | 13 Valley Obligated Group? |
| 14 | conversation amongst Bill Buettner, Amy | | 14 A. I don't know what the DV means in |
| 15 | Frazier, Dan Cancelmi. I don't recall the | 10:33:13 | 15 this situation. 10:35:12 |
| 16 | specific conversation that these notes | | 16 Q. I just asked you before if DV in |
| 17 | reference, but -- | | 17 your answer meant Delaware Valley Obligated |
| 18 | Q. You recall being involved yourself | | 18 Group. So does having me refresh your |
| 19 | as well? | | 19 recollection there lead you to believe that DV |
| 20 | A. I don't recall this specific | 10:33:20 | 20 most likely means Delaware Valley Obligated |
| 21 | meeting on April 18th, but the nature of my | | 21 Group in these notes? 10:35:25 |
| 22 | note taking is to write the attendees at the | | 22 MR. RYAN: Objection. Misstates |
| 23 | top. | | 23 prior question and answer. |
| 24 | Q. Do you write your own name down is | | 24 A. No, don't read anywhere DV meaning |
| 25 | what I'm getting at? | 10:33:30 | 25 any one thing at any one time. You would have 10:35:36 |
| | | Page 649 | Page 651 |
| 1 | A. No. | | 1 to be at the place of a meeting to know the |
| 2 | Q. Or do you typically not do so? | | 2 context of DV. The reason I say that is |
| 3 | A. I typically do not do that. | | 3 Delaware Valley is a common term used by the |
| 4 | Q. So if you followed your protocol, | | 4 audit team as well as by AHERF management to |
| 5 | this was a meeting or at least a phone call in | 10:33:38 | 5 discuss the eastern region, the Philadelphia |
| 6 | which you were a participant at some level? | | 6 and eventually later New Jersey hospitals. It 10:35:52 |
| 7 | A. Correct. | | 7 also happens to be the Delaware Valley |
| 8 | Q. Do you recall whether it was a | | 8 Obligated Group. But in most cases in dialogue |
| 9 | meeting or a phone call? | | 9 with management throughout the year as you're |
| 10 | A. I don't recall. | 10:33:45 | 10 planning for the audit, you're really talking |
| 11 | Q. You typically date your notes on | | 11 about hospitals. You're not usually talking |
| 12 | the day the communication took place? | | 12 about financial statements. |
| 13 | A. Yes. | | 13 So I would say it's actually |
| 14 | Q. Do you have any reason to doubt | | 14 probably more Delaware Valley references |
| 15 | that this communication took place on April 18, | 10:34:00 | 15 entities than it does an obligated group, which 10:36:04 |
| 16 | 1997 today? | | 16 tends to happen later on when financial |
| 17 | MR. RYAN: Objection. | | 17 statements are being prepared. |
| 18 | A. Doubt that it took place? | | 18 Q. So as you sit here today, you know |
| 19 | Q. Yes. | | 19 that C/O, C slash O means charge-offs to the |
| 20 | A. I suspect it did take place. | 10:34:07 | 20 best of your ability to read your note? 10:36:31 |
| 21 | Q. So you don't have a reason to doubt | | 21 A. Yes. |
| 22 | it, I'm right? | | 22 Q. You don't know whether the DV means |
| 23 | A. Correct. | | 23 Delaware Valley Obligated Group, is that right? |
| 24 | Q. What does the line across the | | 24 A. That's right. |
| 25 | middle of the page mean to you, if anything, in | 10:34:24 | 25 Q. What does the gross number on A 10:36:35 |

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|----|-------------------------------------------------|----------|-------------------------------------------------------------|
| | Page 652 | | Page 654 |
| 1 | slash R outpatient mean? | | 1 SDN to AHERF." Then there's an indent. Defers |
| 2 | A. I don't recall. | | 2 A/R problem to be deferred. |
| 3 | Q. Do you recall knowing at this time | | 3 Q. Did you understand SDN at the time |
| 4 | frame, that is, in the spring or April -- in | | 4 to be an enterprise that was somehow involved |
| 5 | the spring of or April of 1997 that AHERF | 10:36:52 | 5 in some intermediate ownership or -- let's 10:38:56 |
| 6 | accounting had written off a large amount of | | 6 leave it at intermediate ownership of the |
| 7 | accounts on the books of the DVOG entities, | | 7 Graduate hospitals? |
| 8 | accounts receivable, that is? | | 8 A. I don't know the legal structure, |
| 9 | A. Yes. | | 9 but SDN was an entity that I believe the |
| 10 | Q. Do you recall the quantum, roughly? | 10:37:06 | 10 Graduate hospitals were going to sit in until 10:39:09 |
| 11 | A. I believe and I generally recall 80 | | 11 AHERF acquired them legally, whatever had to |
| 12 | million dollars being a number I heard at | | 12 happen legally. |
| 13 | different points in time during planning, that | | 13 Q. Do you recall today what you meant |
| 14 | AHERF had charged off some old accounts | | 14 by saying "defers A slash R problem to be |
| 15 | receivable related to the system conversions we | 10:37:19 | 15 deferred"? 10:39:24 |
| 16 | talked about yesterday and the day before from | | 16 A. No, I don't, sir. |
| 17 | PATCOM to Envision. There might have been | | 17 Q. Do you recall any discussions with |
| 18 | another -- another conversion in there as well. | | 18 Mr. Cancelmi or Mr. Buettner or Miss Frazier at |
| 19 | Q. I'm going to ask you to read the | | 19 any time about deferring an A/R problem at the |
| 20 | next line of your notes. | 10:37:31 | 20 Delaware Valley Obligated Group hospitals? 10:39:38 |
| 21 | A. Placing reserves on Graduate | | 21 A. No, I don't recall a discussion. I |
| 22 | entities to be used for DVAR at Y slash E, | | 22 don't recall becoming aware of an A/R problem. |
| 23 | year-end. | | 23 Q. Do you recall any discussions with |
| 24 | Q. What does that mean to you today? | | 24 anyone at Coopers & Lybrand during your fiscal |
| 25 | Or do you recall what you meant to write when | 10:37:47 | 25 year 1997 audit work regarding deferring an A/R 10:39:51 |
| | Page 653 | | Page 655 |
| 1 | you wrote that note? | | 1 problem at any set of hospitals? |
| 2 | A. No, I -- | | 2 A. No, I don't recall that being a |
| 3 | MR. RYAN: Objection. | | 3 matter that I discussed that year. |
| 4 | A. No, I don't recall this meeting and | | 4 Q. Do you recall it being a matter |
| 5 | I think, therefore, I don't know what the | 10:37:54 | 5 that you discussed in any year, deferring A/R 10:40:06 |
| 6 | context was, so I don't know what I was writing | | 6 problems? |
| 7 | there. | | 7 A. No, I don't recall discussing |
| 8 | Q. Do you recall today whether DV | | 8 deferring problems. We talked in '96 they had |
| 9 | meant the Delaware Valley Obligated Group or | | 9 increases in A/R and other things that could be |
| 10 | some other group of hospitals? | 10:38:05 | 10 A/R problems, but I don't know what the defer 10:40:18 |
| 11 | A. I can't even tell you it meant a | | 11 reference is here in these notes. |
| 12 | group of hospitals. It could have meant the | | 12 Q. Do you ever -- |
| 13 | entity. It could have meant the region | | 13 I'm going to ask you to flip one |
| 14 | Delaware Valley. | | 14 page back to page 44 of your notes. |
| 15 | Q. What does the next line of your | 10:38:17 | 15 A. Okay. 10:40:48 |
| 16 | notes say? | | 16 Q. At the top of the page you've |
| 17 | A. "Does not believe there is any | | 17 written the word or the -- I think the date |
| 18 | general reserves other than 50 million | | 18 4-21 and the word conference call or an |
| 19 | dollars." | | 19 abbreviation for it. |
| 20 | Q. Do you recall what that means | 10:38:25 | 20 Is that right? 10:41:01 |
| 21 | today? | | 21 A. Yes. |
| 22 | A. No, sir. | | 22 Q. Do you believe today that these are |
| 23 | Q. Can you read the next two lines? | | 23 notes of a 4-21-97 conference call -- |
| 24 | A. "Becomes part of PP&E slash | | 24 MR. RYAN: Objection. |
| 25 | intangible as part of purchase adjustment from | 10:38:37 | 25 -- written in your hand? 10:41:11 |

24 (Pages 652 to 655)

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| | Page 656 | | Page 658 |
| 1 A. Yes, at least the top part. I 2 don't know if the bottom part is written at 3 some other time or not. I don't know. 4 Q. Let's look then at the top part. 5 Read the note for me that follows the heading. 10:41:21 | | 1 A. 109 is a FASB related to taxes, an 2 SFAS statement related to taxes. Net operating 3 loss is a concept related to taxes. 4 Q. Do you have any reason today to 5 doubt that the page -- the rest of the notes on 10:43:47 6 the page below the line that crosses it to 7 which you referred earlier were taken on the 8 same day? 9 MR. RYAN: Objection. 10 A. I don't know when they were 10:44:03 11 written. 12 Q. Do you know one way or the other 13 whether they were written on the same day as we 14 sit here today? 15 A. No, I don't. 10:44:10 16 Q. Look at item one under summary of 17 conclusions. Can you read that for us? 18 A. "Debits generated by purchase 19 accounting to PP&E over 30 years. Subbullet, 20 will occur at time to AHERF." 10:44:30 21 Q. Do you know what that means today? 22 Do you have any recollection? 23 A. I don't recall writing the note, so 24 I can't give you a specific recollection. It 25 seems to reference the concept of amortization 10:44:49 | |
| 12 A. Write down 50 million dollars 13 paren, parenthesis, put half against A/R. 14 Q. Do you have any recollection today 15 what either one of those notes means? 10:41:49 16 A. No, sir. 17 Q. Can you read the rest of that note 18 regarding the 4-21-97 conference call for us 19 starting with the 40 million dollar reference? 20 A. Sure. 40 million dollar -- 10:42:14 21 Q. Let me give you one caution on it. 22 I apologize for interrupting. If you'd read it 23 a little more slowly than some of the other 24 reading we've been doing, the court reporter 25 will be happier. 10:42:24 | 10:41:36 | | |
| | Page 657 | | Page 659 |
| 1 A. She'll be my friend? 2 Q. Perhaps. 3 A. 40 million dollar debt at Mt. Sinai 4 to Graduate. Then there's a bullet. Mt. Sinai 5 to be sold for ten million dollars. Subbullet, 10:42:33 6 merge with AHERF, question mark. Prior or 7 subsequent, question mark. New bullet. D E P 8 R, depreciation. Recapture. Subbullet, view 9 as NOL under 109. Then the number one GW, 10 probably good will. The number two, other 11 intangibles. The number three, a down arrow. 12 Probably means decrease in expense. 13 Q. Does NOL mean net operating loss? 14 A. I believe so, yes. 15 Q. What is under 109 mean to you? 10:43:10 16 A. As it relates to AHERF or is it 17 just in this note or what? 18 Q. As it relates to this note in 19 particular. 20 A. I don't recall writing the note, 10:43:19 21 so, I mean, do you want me to speculate? 22 Q. In your note-taking practices as an 23 auditor at Coopers & Lybrand, does that give 24 you any context to tell us what you think 109 25 meant at the time? 10:43:34 | 10:42:58 | 1 of items recorded as part of purchase 2 accounting when they were recorded against 3 PP&E. 4 Q. So the line "will occur at time to 5 AHERF" means at the time transferred to AHERF 6 ownership? 7 A. I don't know what it means. 8 MR. RYAN: Objection. 9 A. I don't remember the meeting, so I 10 don't know exactly what it is, but you asked me 11 to generally try to speculate what number one 12 might reference. And I tried to help you with 13 that. 14 Q. I didn't ask you to generally 15 speculate. I asked you to give me your best 16 effort to read the note in context. 17 Is it true that your best effort to 18 read the note in context would cause you to say 19 that the note will occur at time, to AHERF 20 means entrance into AHERF or ownership by 21 AHERF? 22 MR. RYAN: Objection. 23 A. I don't know. I don't know what 24 that means. 25 Q. In the left-hand margin, the lower | 10:45:03 10:45:11 10:45:18 10:45:35 10:45:40 |

25 (Pages 656 to 659)

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| | | Page 660 | Page 662 |
|----|-------------------------------------------------------|----------|-------------------------------------------------------------|
| 1 | left-hand corner, you have apparently written | | 1 Q. Then the word just beneath that, is |
| 2 | the words in a box or a part of a box "view | | 2 that the word review? |
| 3 | consolidated basis as acquisition." | | 3 A. You mean on the left-hand margin? |
| 4 | Did I read that right? | | 4 Q. Yes. |
| 5 | A. Yes. 10:45:53 | | 5 A. Revenues. 10:57:47 |
| 6 | Q. Do you know what that means today? | | 6 Q. I'm sorry, revenues. Thank you. |
| 7 | A. I do not. | | 7 Then you have a bullet point. Can |
| 8 | Q. Do you have any recollection of | | 8 you read what that bullet point says? |
| 9 | what it meant when you wrote it down? | | 9 A. "50 million dollar additional |
| 10 | A. No, I don't. 10:45:58 | | 10 reserve dash 25 million through March." Next 10:57:58 |
| 11 | Q. I'm going to ask you to flip back a | | 11 line, "50 million through April." |
| 12 | couple pages to page 37 of the exhibit. Page | | 12 Q. Having had a chance to look at the |
| 13 | 37 through 41, I think, if you take a moment to | | 13 notes very briefly at our break and then see -- |
| 14 | review them, are another set of your | | 14 seeing now how they start off, do you recall |
| 15 | handwritten notes. If you could confirm that 10:46:33 | | 15 these to be notes of any meeting or call? 10:58:12 |
| 16 | for me and then that would be great and I will | | 16 A. I don't recall. |
| 17 | have a few questions on them. | | 17 Q. I believe that you have previously |
| 18 | MR. JONES: And this is a good spot | | 18 testified that you had a belief that these |
| 19 | to change the tape. | | 19 notes were of an internal update meeting with |
| 20 | THE VIDEOGRAPHER: Off the record 10:46:49 | | 20 Mr. Kirstein, Buettner and Frazier. You don't 10:58:33 |
| 21 | at 10:47, end of the first videotape. | | 21 need to trust me on that, but now that I said |
| 22 | (Recess had.) | | 22 it, does that refresh your recollection, that |
| 23 | THE VIDEOGRAPHER: On the record at | | 23 that may be what these notes are? |
| 24 | 10:56. Videotape number two, volume three. | | 24 A. Yes, I think my prior testimony was |
| 25 | Q. Mr. Kirstein, I had a quick 10:56:22 | | 25 I didn't recall what they came from, but 10:58:46 |
| | | Page 661 | Page 663 |
| 1 | follow-up question to the set of notes we were | | 1 looking at the nature of the content of the |
| 2 | just looking at, in particular, on page 44. | | 2 five pages, it appears to be from some sort of |
| 3 | A. Okay. | | 3 update meeting related to the audit. |
| 4 | Q. Which those notes are headed with | | 4 I don't sitting here today recall |
| 5 | the 4-21 conference call phrase. 10:56:35 | | 5 if Bill Buettner and Amy Frazier was there, but 10:59:00 |
| 6 | A. Okay. | | 6 I had to get the information from somebody to |
| 7 | Q. Do you know who was on this | | 7 write it down. |
| 8 | conference call as you sit here today? | | 8 Q. Do you believe it was a set -- a |
| 9 | A. No, I do not. | | 9 meeting, though, with Coopers & Lybrand |
| 10 | Q. Let's again refer you back again to 10:56:53 | | 10 personnel as you sit here today? 10:59:09 |
| 11 | page 37 through 41. These are notes in your | | 11 A. I believe so, yes. |
| 12 | hand? | | 12 Q. Do you recall -- can you recall |
| 13 | A. Yes. | | 13 whether any AHERF personnel were in attendance? |
| 14 | Q. They're dated 6-10, is that right? | | 14 A. No, I don't have a specific |
| 15 | A. Correct. 10:57:19 | | 15 recollection of June 10th, of the meeting. I 10:59:17 |
| 16 | Q. Do you believe that to be 6-10-97? | | 16 just tried to help in prior testimony and |
| 17 | A. Yes. | | 17 again, for you, given the general nature what |
| 18 | Q. You've numbered the pages one | | 18 it might be from. |
| 19 | through five through five of five? | | 19 Q. When you read the first few lines |
| 20 | A. Correct. 10:57:29 | | 20 as you just did, or having so read them, do you 10:59:32 |
| 21 | Q. In the upper right-hand corner? | | 21 have any recollection today of what you meant |
| 22 | A. Yes, sir. | | 22 by using the word thru in short form, T H R U? |
| 23 | Q. The heading on the first page of | | 23 A. No, I don't. |
| 24 | the note says "AHERF issue"? | | 24 Q. When you wrote that term in your |
| 25 | A. Might be plural issues, but yes. 10:57:36 | | 25 auditing work, did it have any specific meaning 10:59:52 |

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| | | | |
|----------------------------------------------------|----------|-----------------------------------------------------------|----------|
| | Page 664 | | Page 666 |
| 1 to you? | | 1 believe we got that until the year-end audit | |
| 2 MR. RYAN: Objection. | | 2 phase. So even in June, while I don't recall | |
| 3 A. No, I don't think -- no. Thru is | 11:00:04 | 3 the meeting, there was no purchase accounting | |
| 4 not a generally accepted auditing term that I | | 4 detail that we had at this point in time. | |
| 5 know of and I don't recall having a meaning to | | 5 Q. Had you discussed any of the 11:02:28 | |
| 6 that. | | 6 purchase accounting approaches that AHERF was | |
| 7 Q. The next line reads how? | 11:00:13 | 7 taking or was planning to take with AHERF | |
| 8 A. I'm sorry? | | 8 personnel before August? | |
| 9 Q. How do you read the next line of | | 9 MR. RYAN: Objection. | |
| 10 text? 11:00:13 | | 10 A. Are you referencing like purchase 11:02:44 | |
| 11 A. You would like me to read it or -- | | 11 versus pooling? | |
| 12 Q. I would. | | 12 Q. I'm sorry? | |
| 13 A. "80 million dollar write-offs and | | 13 A. Are you referencing like how they | |
| 14 offset by 50 million dollar reserve," and then | 11:00:24 | 14 would account for it, like purchase accounting | |
| 15 there's a subbullet, "need current versus prior | | 15 versus pooling? 11:02:52 | |
| 16 year breakout." | | 16 Q. Yes. | |
| 17 Q. Do you recall today what you meant | | 17 A. I believe sometime early in | |
| 18 when you wrote that? | | 18 planning, maybe January, February, March time | |
| 19 A. No. | | 19 frame, there was discussions that I was part of | |
| 20 Q. In any of your work in reviewing 11:00:33 | | 20 at certain points with management about how | 11:03:01 |
| 21 documentation over the years, either in | | 21 would the acquisition for Graduate and | |
| 22 preparation for depositions or otherwise, have | | 22 potentially others, I think Forbes and AGH, be | |
| 23 you come to an understanding of what you meant? | | 23 accounted for by AHERF. | |
| 24 MR. RYAN: Objection. | | 24 Q. Do you recall any discussion of | |
| 25 A. No, I have not. 11:00:47 | | 25 offsetting reserves established in connection 11:03:16 | |
| | Page 665 | | Page 667 |
| 1 Q. Do you recall any discussion of the | | 1 with the purchase of the Graduate enterprises | |
| 2 topic of using the 50 million dollar of | | 2 against any write-offs in those discussions? | |
| 3 reserves established in purchase accounting in | | 3 MR. RYAN: Objection. | |
| 4 connection with the Graduate acquisition to | 11:01:14 | 4 A. No. As I said, I don't recall | |
| 5 offset the 80 million dollar charge-offs to | | 5 hearing that until August. 11:03:34 | |
| 6 which we referred earlier at the Delaware | | 6 Q. As you sit here today, do you | |
| 7 Valley Obligated Group? | | 7 believe that offsetting 80 million dollars of | |
| 8 MR. RYAN: I'm sorry, can I get | | 8 write-offs at the Delaware Valley Obligated | |
| 9 that read back, please? | 11:01:22 | 9 Group hospitals or charge-offs with 50 million | |
| 10 (Record read.) 11:01:22 | | 10 dollars of reserves established in connection 11:03:54 | |
| 11 MR. RYAN: I'll object to the lack | | 11 with the Graduate acquisition would have been | |
| 12 of a time frame. | | 12 wrong under GAAP? | |
| 13 Q. There is no time frame. At any | | 13 MR. RYAN: Objection. | |
| 14 time. | | 14 A. I think GAAP, at least when I think | |
| 15 A. Other than what we talked about a | 11:01:50 | 15 back, GAAP was assessed at the financial | |
| 16 little earlier, learning of a potential, of the | | 16 statement level. So in the case of AHERF, it | 11:04:10 |
| 17 transfer in early August, that's the only time | | 17 would have been at the AHERF consolidated | |
| 18 I recall hearing of something, something to | | 18 financial statement level. | |
| 19 that effect. | | 19 So I guess it's possible that the | |
| 20 Q. So you -- all right. 11:02:01 | | 20 transaction that you just talked about, if it | 11:04:24 |
| 21 Nothing before that on this topic? | | 21 even occurred, could theoretically be GAAP. | |
| 22 A. No. In fact, as I said earlier, | | 22 You would have to know the facts and | |
| 23 we, C&L, had been waiting, had told management | | 23 circumstances to make that determination. | |
| 24 we needed to see what the opening balance sheet | | 24 Q. It certainly could also be non GAAP | |
| 25 and purchase accounting would be, and I don't | 11:02:18 | 25 as well? 11:04:38 | |

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| | | Page 720 | Page 722 |
|----|-------------------------------------------------|----------|----------------------------------------------------------|
| 1 | the Delaware Valley Obligated Group hospitals, | | 1 paper for me? |
| 2 | does that refresh your recollection about why | | 2 MR. RYAN: Objection. |
| 3 | you wrote where did it go? | | 3 A. It's likely that I have. I don't |
| 4 | A. No, sir. | | 4 recall specific instances, but that seems like |
| 5 | Q. Did you ever come to learn that | 13:12:46 | 5 a reasonable interpretation. 13:14:35 |
| 6 | what I just described occurred? | | 6 Q. Do you ever recall receiving a |
| 7 | A. I believe subsequent in litigation | | 7 write-up or a memorandum or words on paper from |
| 8 | preparing for depositions I've heard something | | 8 Mr. Buettner or anyone on the PFMA contract or |
| 9 | similar to what you just described, yes. | | 9 any reserve regarding the PFMA contract? |
| 10 | Q. When you heard it then, did it | 13:13:00 | 10 A. Me receiving something? 13:14:54 |
| 11 | refresh your recollection about why you wrote | | 11 Q. Yes, sir. |
| 12 | where did it go? | | 12 A. No. |
| 13 | A. No, sir. | | 13 Q. Do you see -- |
| 14 | Q. As you sit here today, you don't | | 14 Do you recall any discussions with |
| 15 | know why you wrote the words where did it go? | 13:13:11 | 15 anybody on the AHERF engagement at Coopers & 13:15:13 |
| 16 | A. No, sir. | | 16 Lybrand about the PFMA contract other than what |
| 17 | Q. What's in the circle just above the | | 17 you've already shared with us, if anything? |
| 18 | words PFMA contract? | | 18 MR. RYAN: Objection. |
| 19 | A. Need docs, D O C S. | | 19 A. No, sir. |
| 20 | Q. Need, N E E D? | 13:13:22 | 20 Q. Do you recall any conversations 13:15:23 |
| 21 | A. Correct. | | 21 with anybody at AHERF about the PFMA contract? |
| 22 | Q. What is in the box just to the left | | 22 A. No, sir. |
| 23 | of PFMA contract? | | 23 Q. Look down towards the bottom of the |
| 24 | A. WFB write-up. | | 24 page under item two, Greater Atlantic. Do you |
| 25 | Q. What does WFB mean? | 13:13:32 | 25 see that? 13:15:53 |
| | | Page 721 | Page 723 |
| 1 | A. Bill Buettner. | | 1 A. Yes. |
| 2 | Q. What does write-up mean to you | | 2 Q. Can you read the next few words for |
| 3 | today? | | 3 me in that line? |
| 4 | A. I don't know. I don't remember | | 4 A. Greater Atlantic enters, the letter |
| 5 | writing this. 13:13:41 | | 5 K, contract is my -- would that mean, with 13:16:01 |
| 6 | Q. When you wrote write-up in your -- | | 6 Philadelphia Fire. |
| 7 | the words write-up with -- next to somebody's | | 7 Q. Looking down, the last subpoint |
| 8 | initials -- when you wrote the words write-up | | 8 with an arrow beneath that, you write, McNair, |
| 9 | next to somebody's initials in your audit work | | 9 Beth Chang say something, I can't read the rest |
| 10 | in connection with fiscal year 1997 or other | 13:13:54 | 10 of it. Can you read that line for me? 13:16:19 |
| 11 | years, what did that typically mean to you? | | 11 A. McNair slash Beth Chang say |
| 12 | MR. RYAN: Objection. | | 12 liability is with GHS. That's underlined. |
| 13 | A. I don't think it has a typical | | 13 Q. GHS was the health system that |
| 14 | meaning. I don't know. | | 14 formerly owned the Graduate hospitals? |
| 15 | Q. Does write-up -- I'm only asking, I | 13:14:03 | 15 A. I don't recall. 13:16:35 |
| 16 | don't know the answer -- mean put together a | | 16 Q. You don't recall. |
| 17 | memo, put together a written piece of some kind | | 17 Do you know who Mr. McNair or Miss |
| 18 | to you? | | 18 Chang were? |
| 19 | A. Not necessarily. I don't know what | | 19 A. No idea who Beth Chang is. I think |
| 20 | this meant. It could be put together. It | 13:14:17 | 20 McNair was an attorney, an in-house attorney 13:16:46 |
| 21 | could be someone has a memo to read. I don't | | 21 with AHERF, I believe. |
| 22 | know. | | 22 Q. Do you ever recall that they had |
| 23 | Q. Have you ever used it in your | | 23 advised that they believed that any liabilities |
| 24 | business practices to mean that, write up a | | 24 for PFMA losses resided with parties other than |
| 25 | memo for me or write up something on a piece of | 13:14:23 | 25 AHERF or the Graduate hospitals? 13:16:59 |

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| | | Page 724 | |
|----|----------------------------------------------------------|----------|------------------------------------------------------------|
| 1 | A. No. | | 1 liable subsequently for those losses? |
| 2 | Q. At the top of the same page, you've | | 2 A. I don't know if I learned who |
| 3 | got a note in the upper right-hand corner or | | 3 became liable. That sounds like a legal |
| 4 | toward the upper right-hand corner that's | | 4 determination. I think in preparing for |
| 5 | circled. Can you read that for us? 13:17:32 | | 5 depositions I've seen some work papers that Amy 13:19:54 |
| 6 | A. Up here? | | 6 Frazier had done where I believe she made a |
| 7 | Q. Yes. | | 7 determination as to whether or not there should |
| 8 | A. "Not through income slash move to | | 8 be a reserve for PFMA, and I think she |
| 9 | DV reserves for A/R." | | 9 considered it in one of her analyses. |
| 10 | Q. Do you know what that means today? 13:17:41 | | 10 Q. I'm going to ask you to look a 13:20:11 |
| 11 | A. No, sir. | | 11 little bit further down in the document, page |
| 12 | Q. It says, "Move to DV reserves for | | 12 27 of Exhibit 4403, to the heading CRA Review, |
| 13 | A/R." Is that right? | | 13 A, Cushion slash Open Items. |
| 14 | A. Yes. | | 14 Do you recall any discussions of |
| 15 | Q. Does that mean the Delaware 13:17:55 | | 15 cushions at this audit meeting? 13:20:28 |
| 16 | Valley -- does that mean the Delaware Valley | | 16 MR. RYAN: Objection to form. |
| 17 | Obligated Group hospitals and their reserves to | | 17 MR. JONES: What is that objection |
| 18 | you today? | | 18 based on? |
| 19 | A. I don't know what it means. I | | 19 MR. RYAN: I think we previously |
| 20 | mean, I don't remember the meaning. I don't 13:18:05 | | 20 established that is a term that has multiple 13:20:35 |
| 21 | know what I was thinking when I wrote the note, | | 21 meanings, so I'm not sure what meaning you were |
| 22 | sitting here today, so I don't know what that | | 22 using the word cushion. |
| 23 | interpretation would be. | | 23 MR. JONES: I don't know that I |
| 24 | Q. Did you ever see a legal memorandum | | 24 attached a particular meaning. |
| 25 | from Miss Chang on the topic of the PFMA 13:18:16 | | 25 Q. Do you recall discussions that 13:20:44 |
| | | Page 725 | Page 727 |
| 1 | contract or any losses or reserves in | | 1 included the word cushions? |
| 2 | connection with it? | | 2 A. No, sir. |
| 3 | A. I don't recall seeing one. | | 3 Q. Do you see that there are amounts |
| 4 | Q. Did you ever ask for one, a legal | | 4 written in your handwriting that have a line |
| 5 | opinion, or a legal memorandum? 13:18:31 | | 5 drawn back to the word cushions? 13:21:00 |
| 6 | A. I don't believe I did, no. | | 6 A. Yes. |
| 7 | Q. Do you recall any discussions about | | 7 Q. Those amounts say AGH 2 million |
| 8 | a legal memorandum on this topic in your work | | 8 dollars, is that right? |
| 9 | at AHERF? | | 9 A. Yes. |
| 10 | A. Personally, no. I mean, this 13:18:43 | | 10 Q. And Forbes 7 million dollars? 13:21:05 |
| 11 | wasn't an area that I was working on. | | 11 A. Correct. |
| 12 | Q. Do you recall anyone coming to a | | 12 Q. Do you know what those amounts were |
| 13 | conclusion about whether any liabilities, as a | | 13 for? |
| 14 | member of the Coopers & Lybrand engagement | | 14 A. No, I do not. |
| 15 | team, coming to a conclusion about who would be 13:19:07 | | 15 Q. Do you recall that those were 13:21:10 |
| 16 | liable for the PFMA losses? | | 16 amounts that someone determined were cushions |
| 17 | MR. RYAN: Could you read that | | 17 on the books of those hospitals? |
| 18 | again, please? | | 18 A. I don't recall what they are in |
| 19 | (Record read.) | | 19 this meeting. |
| 20 | A. I don't -- are you talking at the 13:19:35 | | 20 Q. Do you recall today from any other 13:21:19 |
| 21 | time of the audit? | | 21 source? |
| 22 | Q. Yes, during your audit work for | | 22 A. No, sir. I wouldn't -- you have to |
| 23 | AHERF. | | 23 understand, these are notes from an update |
| 24 | A. I don't recall. | | 24 meeting. So what typically happens after these |
| 25 | Q. Did you learn about who became 13:19:42 | | 25 meetings is whatever information we gather, 13:21:32 |

DEPOSITION ERRATA SHEET

RE: THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF ALLEGHENY
HEALTH, EDUCATION AND RESEARCH FOUNDATION v. PRICEWATERHOUSE
COOPERS, LLP

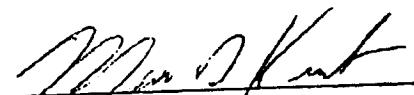
I, Mark Douglas Kirstein, make the following corrections, additions, or deletions to the transcript of my deposition, taken on May 11-13, 2004, for the following reasons. By my signature below, I authorize you to attach this errata sheet to the transcript.

| Page: Line | Change | Reason |
|----------------------------------------------------|---------------------------------------------------------------------------------------------|---------------|
| 11:9 | "ACP" should be "HCP" | Error |
| 33:8 | Answer should end at "Kocak", A new question begins with "thank you" and ends at "bad debt" | Error |
| 36:15 | "grade" should be "rate" | Error |
| 80:5 | "I do not, no" should be "I do not know" | Error |
| 95:15 | "when" should be "went" | Error |
| 101:15 | "what it says" should be "Is that what it says?" | Clarification |
| 103:17 | "reserve that" should be "reserve. That" | Error |
| 145:5 | "fluct" should be "flux" | Error |
| 149:4 | "There's" should be "That's" | Error |
| 152:24 | "that" should be "a" | Clarification |
| 155:5 | "it's an audit" should be "I saw it" | Error |
| 163:23 | "of an" should be "of" | Error |
| 196:10 | "Cancellini" should be "McConnell or" | Error |
| 205:11 | "Marie" should be "Murray" | Error |
| 212:7 | "WL" should be "WO" | Error |
| 217:25, 219:12, 224:9, 302:20, 303:3, 303:14 | "Calosheski" should be "Kaliszewski" | Error |
| 224:16 | "Collections. He" should be "collections, and even" | Error |
| 224:17 | "referred them" should be "further" | Error |
| 239:5 | "inpatients instead" should be "inpatients. Instead" | Error |
| 239:6 | "aging. Day" should be "aging day" | Error |
| 239:8 | "billed. Where" should be "billed -- Where" | Error |
| 250:23 | "Christa" should be "Kristen" | Error |
| 291:7 | "17. I" should be "17 I" | Error |

| Page: Line | Change | Reason |
|------------|----------------------------------------------------------------------------|---------------|
| 332:17 | "about, what FAS or FAS" should be "about -- in what FAS or SAS" | Error |
| 335:6 | "Envision" should be "Invision" | Error |
| 357:6 | "same" s/b "self" | Error |
| 380:13 | "D&FB" should be "DNFB" | Error |
| 385:20 | "to control" should be "of controls" | Error |
| 395:7 | "Elkins box St. Chris" should be "Elkins, Bucks, St. Chris" | Error |
| 397:18 | "that" should be "that--" | Error |
| 401:13 | "contractual is a bad debt, yes" should be "contractuals, a bad debt--yes" | Error |
| 403:5 | "number" should be "level" | Error |
| 437:19 | "entries" should be "interest" | Error |
| 452:10 | "Elsworth" should be "Ellsworth" | Error |
| 460:10 | "BP&E" should be "PP&E" | Error |
| 461:10 | "CR" should be "CRA" | Error |
| 465:21 | "I do not, no." should be "I do not know" | Error |
| 472:2 | "I do not, no." should be "I do not know" | Error |
| 481:7 | "can" should be "can't" | Error |
| 507:9 | "us" should be "this" | Error |
| 523:1 | "Lyden" should be "Lydon" | Error |
| 527:11 | "throw" should be "flow through" | Error |
| 533:7 | "Might" should be "Might've" | Error |
| 543:12 | "line" should be "of" | Error |
| 543:13 | "adjusted" should be "unadjusted" | Error |
| 544:8 | "No" should be "No. I don't recall that" | Clarification |
| 572:7 | "Jenker Bittel" should be "Drinker Biddle" | Error |
| 583:10 | "Chris" should be "Kristen" | Error |
| 587:19 | Remove "that Mr." | Error |
| 623:4 | "A." should be "Q." | Error |
| 625:12 | "and assets" should be "of net assets" | Error |
| 626:19 | "answer you" should be "give you" | Error |
| 629:3 | "does not" should be "is not" | Error |

| Page: Line | Change | Reason |
|---------------|----------------------------------------------------------------|--------|
| 645:3 | "plan" should be "part" | Error |
| 662:11 | "50" should be "25" | Error |
| 664:13 | Insert quotation mark after "offs" | Error |
| 664:14 | Insert quotation mark before "offset" | Error |
| 666:22 | "AGH" should be "AVH" | Error |
| 688:4 | "you" should be "you've" | Error |
| 692:4 | "document" should be "audit" | Error |
| 716:10 | Remove "time of the" | Error |
| 731:9, 738:17 | "Mary Bess" should be "Maribess" | Error |
| 741:13 | "imbedding" should be "embedding" | Error |
| 789:25 | "PricewaterhouseCoopers" should be "Pricewaterhouse" | Error |
| 795:6 | "from Carl Wease" should be "phone call once" | Error |
| 806:3 | "Casperbauer" should be "Kasperbauer" | Error |
| 822:3 | "Wackly and Marty Bennett" should be "Wockley and Marne Betta" | Error |

I have read the transcript of my deposition taken May 11-13, 2004 and swear that, with the above changes, the transcript is true and correct.

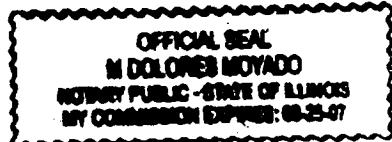


Mark D. Kirstein

7/13/04
Date

Sworn to before me
This 13th day of July, 2004

M. Dolores Arroyo
Notary Public



Kite Dep.

In The Matter Of:

***AHERF v.
PRICEWATERHOUSECOOPERS LLP,***

STEVEN B. KITE
February 25, 2005

LEGALINK MANHATTAN
420 Lexington Avenue - Suite 2108
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PH: 212-557-7400 / FAX: 212-692-9171

KITE, STEVEN B. - Vol. 1



STEVEN B. KITE

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| <p style="text-align: right;">Page 114</p> <p>1 he's required to?</p> <p>2 A. I really hadn't thought about that. I</p> <p>3 mean, we have to think to the point simply if there is</p> <p>4 a breach, there are remedies for creditors to take.</p> <p>5 Q. Okay. And I'm just trying to -- I'm just</p> <p>6 trying to --</p> <p>7 A. Yeah, and what they might do I think is</p> <p>8 something I -- you know, we can't speculate on it. I</p> <p>9 mean, typically it involves getting a consultant and</p> <p>10 implementing the recommendations of a consultant to</p> <p>11 enhance revenues, cut expenses or sell off</p> <p>12 non-productive assets.</p> <p>13 Q. Now, you've referred to a provision</p> <p>14 requiring call-in of a consultant. And that would,</p> <p>15 for example, be in Section 6.3 of this Master Trust</p> <p>16 Indenture?</p> <p>17 A. Correct.</p> <p>18 Q. Let's talk a little bit about Section 6.3.</p> <p>19 It's on pages 37 to 38; is that right?</p> <p>20 A. Right.</p> <p>21 Q. And this is a section entitled "Rates and</p> <p>22 Charges;" is that right?</p> <p>23 A. Mm-hmm.</p> <p>24 Q. Have you heard this referred to sometimes</p> | <p style="text-align: right;">Page 116</p> <p>1 able to make all those payments, that they will change</p> <p>2 their rates, right?</p> <p>3 A. Correct.</p> <p>4 Q. And that's why this is called a rate</p> <p>5 covenant, right?</p> <p>6 A. Probably. That's part of it.</p> <p>7 Q. All right. Then the third sentence of</p> <p>8 Section 6.3 states, "The Members of the Obligated</p> <p>9 Group covenant and agree that they will cause the</p> <p>10 officer certifying the report referred to in Section</p> <p>11 6.6(b) hereof to calculate the Historical Debt Service</p> <p>12 Coverage Ratio for the Fiscal Year covered by such</p> <p>13 report and to deliver a copy of such calculation to</p> <p>14 the Master Trustee," right?</p> <p>15 A. Right.</p> <p>16 Q. So, that's saying every year the obligated</p> <p>17 group will calculate this ratio and an officer of the</p> <p>18 company will deliver that to the Master Trustee?</p> <p>19 A. Right.</p> <p>20 Q. And in fact DVOG did that for 1996 and</p> <p>21 1997, right?</p> <p>22 A. I don't think I ever saw a certificate.</p> <p>23 Q. Okay. You didn't ever review the</p> <p>24 certificates that were provided by officers of DVOG?</p> |
| <p style="text-align: right;">Page 115</p> <p>1 as a rate covenant?</p> <p>2 A. Correct.</p> <p>3 Q. And do you agree that Section 6.3 then</p> <p>4 contains a covenant that the obligated group will</p> <p>5 operate all of its facilities on a revenue-producing</p> <p>6 basis and will charge such fees and rates for its</p> <p>7 facilities and services and will exercise such skill</p> <p>8 and diligence as to provide income from its property</p> <p>9 together with other available funds sufficient to pay</p> <p>10 promptly all payments of principal and interest on its</p> <p>11 indebtedness, all expenses of operation, maintenance</p> <p>12 and repair of its facility and all other payments</p> <p>13 required to be made by it hereunder to the extent</p> <p>14 permitted by law"?</p> <p>15 A. Yes, Section 6.3 contains several</p> <p>16 covenants, and that is one of them.</p> <p>17 Q. All right. So, this is in effect a</p> <p>18 covenant to manage your business and to charge rates</p> <p>19 in such a way that you'll be able to make the payments</p> <p>20 you have to make?</p> <p>21 A. Correct.</p> <p>22 Q. All right. So, the second sentence</p> <p>23 contains a related covenant which says if the</p> <p>24 obligated group has to change its rates in order to be</p> | <p style="text-align: right;">Page 117</p> <p>1 A. I don't believe I ever saw that.</p> <p>2 Q. Okay. But at a minimum you don't have any</p> <p>3 basis to say that DVOG didn't do what's stated there</p> <p>4 in the third sentence of Section 6.3, right?</p> <p>5 A. Just don't know one way or the other.</p> <p>6 Q. Okay. Do you agree that DVOG in fact</p> <p>7 operated its business and charged rates in such a way</p> <p>8 that it was able to make the payments it needed to in</p> <p>9 1996 and 1997?</p> <p>10 A. I don't have any basis to know that one way</p> <p>11 or the other.</p> <p>12 Q. All right. Now, all three of the sentences</p> <p>13 that we've reviewed so far contain the words</p> <p>14 "covenant" and "agree," right?</p> <p>15 A. Okay. Yes.</p> <p>16 Q. Now, the next sentence, which now talks</p> <p>17 about historical debt service coverage ratio of 1.10,</p> <p>18 that sentence does not contain the words "covenant" or</p> <p>19 "agree," does it?</p> <p>20 A. That's correct.</p> <p>21 Q. All right. Now, this is the sentence which</p> <p>22 provides that if the historical debt service coverage</p> <p>23 ratio is less than 1.1 to 1, then the obligated group</p> <p>24 has to retain a consultant, right?</p> |

STEVEN B. KITE

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| <p style="text-align: right;">Page 118</p> <p>1 A. Yes.</p> <p>2 Q. Now, "consultant" is another one of our 3 defined terms; is that right?</p> <p>4 A. Right.</p> <p>5 Q. In fact, it's defined on page 4 of the 6 agreement.</p> <p>7 A. Okay. I'm with you.</p> <p>8 Q. Now, do you agree with me that under the 9 DVOG Master Trust Indenture the obligated group can 10 choose who the consultant will be if a consultant has 11 to be called in through Section 6.3?</p> <p>12 A. Yes.</p> <p>13 Q. That is, the bond insurer or the letter of 14 credit bank doesn't have an ability to veto the 15 selection of consultant, right?</p> <p>16 A. Correct.</p> <p>17 Q. Do you agree with me that there is no 18 requirement that the consultant must be independent of 19 the obligated group?</p> <p>20 A. Correct.</p> <p>21 Q. Have you seen bond documents where the 22 definition of consultant in fact did include such a 23 requirement?</p> <p>24 A. Yes.</p> | <p style="text-align: right;">Page 120</p> <p>1 A. I -- somebody disagreed with it I remember 2 from reading something. I don't recall whether it was 3 a trustee or one of the banks in the credit group, but 4 I remember reading something about somebody saying 5 AHERF shouldn't have been the consultant. But I don't 6 remember who it was and I don't remember what the 7 trustee's position was.</p> <p>8 Q. Do you agree that the trustee for the 9 Centennial bonds never declared an event of default as 10 a result of Centennial's retention of AHERF as a 11 consultant?</p> <p>12 A. I'm not aware of an event of default.</p> <p>13 Q. All right. Now, if you could return, 14 please, to Section 6.3, --</p> <p>15 A. Okay.</p> <p>16 Q. -- the next sentence, we're now on the 17 fourth paragraph of this section, the next sentence 18 provides that a copy of the consultant's report and 19 recommendations has to be filed with various people, 20 right?</p> <p>21 A. Right.</p> <p>22 Q. Then the next sentence states, "The 23 obligated group shall follow the recommendation of the 24 consultant to the extent feasible," right?</p> |
| <p style="text-align: right;">Page 119</p> <p>1 Q. And that was not included in the DVOG 2 Master Trust Indenture, right?</p> <p>3 A. Correct.</p> <p>4 Q. So that, to provide an example, the DVOG 5 could have retained AHERF as a consultant in the 6 manner that in 1977 the Centennial Obligated Group 7 retained AHERF as a consultant under the analogous 8 provision of its Master Trust Indenture, right?</p> <p>9 A. Subject to the caveat that the consultant 10 has to have a favorable reputation for skill and 11 experience in performing similar services.</p> <p>12 And I noticed that in how they were dealing 13 with Centennial it struck me that it would be hard to 14 say that AHERF meets that definition. But if AHERF 15 did meet that definition, yes, they could have been 16 appointed.</p> <p>17 Q. All right. And you are aware, are you not, 18 that in 1997 AHERF and Centennial took a position that 19 AHERF in fact did meet the definition of a consultant?</p> <p>20 A. I believe -- I believe so, they took that 21 position.</p> <p>22 Q. And are you aware of the fact that the 23 trustee for the Centennial bonds never disagreed with 24 that position?</p> | <p style="text-align: right;">Page 121</p> <p>1 A. Right.</p> <p>2 Q. Then the next sentence is the one that I 3 believe you focus on in your report, right, that 4 contains a proviso relating to a hundred percent, 5 right?</p> <p>6 A. Correct.</p> <p>7 MR. COGAN: Objection.</p> <p>8 BY MR. RYAN:</p> <p>9 Q. Now, this sentence states in part, "No 10 event of default shall be deemed to have occurred 11 hereunder," right?</p> <p>12 A. Right.</p> <p>13 Q. And you agree with me that "hereunder" 14 means under this Master Trust Indenture?</p> <p>15 A. Yes.</p> <p>16 Q. It does not mean under this section?</p> <p>17 A. Correct.</p> <p>18 Q. Now, you see, then, in the next sentence 19 that reads, "The foregoing provisions notwithstanding, 20 if in any fiscal year the historical debt service 21 coverage ratio is less than 1.10, the Master Trustee 22 shall not be obligated to require the members of the 23 obligated group to retain a consultant to make such 24 recommendations" if two certain instances obtain,</p> |

31 (Pages 118 to 121)

ERRATA SHEET
FOR STEVEN B. KITE

| Page/Line | Should Read | Reason for Change |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| 6/14 | Change "Yeah" to "Yes" | Grammar |
| 8/5 | Change "enjoyed work" to "enjoyed working" | Grammar |
| 8/15 | delete "in" | Grammar |
| 9/10 | Change "their" to "its" | Grammar |
| 9/11 | Change "their" to "its" | Grammar |
| 9/12-17 | Change to read "and bond counsel's client is typically viewed for legal conflict of interest purposes as the borrower or the issuer." | Clarity |
| 11/18 | Change "party" to "entity" | Clarity |
| 12/11 | Change "yeah" to "yes" | Grammar |
| 12/19 | Change "represent" to "represents" | Grammar |
| 12/23 | Change "a couple of" to "two" | Grammar |
| 16/24 - 17/1 | Delete "I said" insert "company" at end of sentence" | Clarity |
| 17/14-16 | Revise sentence to read "I've represented them in the past, but not recently or currently." | Clarity |
| 18/24 | Change "Non-profit" to "Health Care" | Accuracy |
| 29/12 | Change "Yeah" to "Yes" | Grammar |
| 29/16 | Insert "for" before "selling" | Clarity |
| 30/18 | Change "you know" to "I would" | Clarity |
| 37/1 | Change "were" to "was" | Grammar |
| 46/24 | Change "relate d" to "related" | Typo |
| 47/4 | Change "graduate" to "Graduate" | Typo |
| 51/23 | Change "exemptions" to "exceptions" | Clarity |
| 55/13 | Change "ben" to "been" | Typo |
| 57/20 | Insert "up" after "picked" | Clarity |
| 59/2 | Change "yeah" to "Yes" | Grammar |
| 63/7 | Change "Yeah" to "Yes" | Grammar |
| 64/17 | Change "contain" to "contains" | Grammar |
| 65/1-2 | Change "has typically been" to "is typically" | Grammar |
| 65/12 | Insert "a" before "separate" | Grammar |
| 70/4 | Change "then kind of" to "that" | Clarity/Grammar |
| 74/9 | Change "Yeah" to "Yes" | Grammar |
| 81/21 | Change "we" to "they" and "our" to "their" | Grammar |
| 84/18 | Change "but" to "by" | Typo |
| 86/3 | Change "cuz" to "because" | Grammar |
| 101/6 | Change "as" to "is" | Typo |
| 103/23 | Change "restate d" to "restated" | Typo |
| 110/10 | Change "required" to "allowed" | Clarity |
| 114/3 | Change "think" to "get" | Clarity |
| 114/7 | Change "Yeah" to "Yes" | Grammar |
| 124/14 | Change "weeding" to "reading" | Typo |
| 125/6 | Change "Yeah" to "Yes" | Grammar |
| 136/15 | Insert "paper" after "commercial" | Clarity |
| 136/20 | Delete apostrophe in "agreement's" | Grammar |

| Page/Line | Should Read | Reason for Change |
|-----------|---------------------------------------------------------------------|---------------------|
| 151/18 | Change "Yeah" to "Yes" | Grammar |
| 152/1 | Change "Yeah" to "Yes" | Grammar |
| 157/5 | Change "the" to "by" | Clarity |
| 160/17 | Change "what" to "was" | Clarity |
| 162/22 | Change "Yeah" to "Yes" | Grammar |
| 166/10 | Change "Yeah" to "Yes" | Grammar |
| 167/3 | Change "cuz" to "because" | Grammar |
| 169/2 | Change "Yeah" to "Yes" | Grammar |
| 169/7 | Change "Yeah" to "Yes" | Grammar |
| 170/3 | Change "Yeah" to "Yes" | Grammar |
| 171/6 | Insert "disclosure part" after "market" Change "till" to "until" | Clarity |
| 174/17 | Change "em" to "them" | Grammar |
| 180/2 | Change "gonna" to "going to" | Grammar |
| 189/21 | Change "Yeah" to "Yes" | Grammar |
| 192/2 | Change "Yeah" to "Yes" in both places | Grammar |
| 216/21 | Change "in in" to "into" | Clarity |
| 217/4 | Change "out" to "over" | Clarity |
| 219/2 | Change "gonna" to "going to" | Grammar |
| 219/4 | Change "familiar" to "I remember" | Clarity |
| 220/13 | Change "gonna" to "going to" | Grammar |
| 221/7 | Change "Yeah" to "Yes" | Grammar |
| 227/4-5 | Change "cuz" to "because" | Grammar |
| 228/15 | Change "their" to "the" | Clarity |
| 232/12 | Change "in" to "an" | Typo |
| 234/2 | Change "kind of " to "tied to" | Clarity |
| 234/17 | Change "gonna" to "going to" | Grammar |
| 238/15 | Change "creditor's" to "creditors" | Typo |
| 238/17 | Change "the" to "a" | Clarity |
| 244/12 | Change "covenant" to "consultant" | Clarity |
| 245/1 | Change "change" to "charge" | Typo |
| 254/10 | Change "gonna" to "going to" | Grammar |
| 254/23 | Change "waiving" to "waiting" | Typo |
| 255/5 | Change "gonna" to "going to" | Grammar |
| 260/9 | Change "change" to "charge" | Typo |
| 267/4 | Change "cuz" to "because" | Grammar |
| 267/9 | Change "Yeah" to "Yes" | Grammar |
| 267/18 | Change "490" to "495" | Checked Our Records |
| 268/15 | Change "either 400 or 420" to "410" | Checked Our Records |
| | Change "490" to "495" | Checked Our Records |
| 221/10 | Change "least" to "last" | Typo |
| 269/20 | Change "nineties" to "eighties" | Checked Our Records |
| 270/2 | Change "95" to "85" | Checked Our Records |

In The Matter Of:

***AHERF v.
PRICEWATERHOUSECOOPERS, L.L.P.***

MARCELLA KNITTEL

July 23, 2003

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KNITTEL, MARCELLA



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MARCELLA KNITTEL

| Page 58 | Page 60 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 words or something, I might make some 2 suggestions or give the credit analyst more 3 information, but ultimately the credit analyst 4 was responsible for what they put into the 5 write-up.</p> <p>6 Q. Okay. But you would have had an understanding 7 of what it was based on your discussions with 8 them --</p> <p>9 A. Yes.</p> <p>10 Q. -- of what they were writing up?</p> <p>11 A. Yes.</p> <p>12 Q. Would you have approved of -- would you have to 13 approve what they wrote up?</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall any instances where they wrote 16 something into their write-up that you didn't 17 agree with and then in turn submitted it to the 18 senior credit committee?</p> <p>19 A. Yes.</p> <p>20 Q. I mean --</p> <p>21 A. I mean that was common to have differing views 22 on how a certain piece of information might be 23 evaluated. Typically, typically we came to a 24 common understanding before the -- before it 25 went to senior credit committee, but there --</p> | <p>1 whether it's correct or incorrect, it's how you 2 would potentially interpret information or how 3 you would view, for instance, a change in the 4 financial statements, is this -- how good or 5 how bad is this. It's a matter of degree 6 typically, not a no, this is right or this is 7 wrong. It typically wasn't that black or 8 white.</p> <p>9 Q. So as to some of the attachments that were 10 attached to your report, you might have 11 disagreed with from time to time how 12 information was interpreted or presented?</p> <p>13 A. That's fair.</p> <p>14 Q. Do you recall any times where you actually 15 thought that the data that was submitted was 16 incorrect?</p> <p>17 A. No.</p> <p>18 Q. Before we take a break, the actual report that 19 had these attachments on it, was that authored 20 by you in most instances?</p> <p>21 A. The credit -- the credit -- the front part of 22 the credit offering memorandum was authored by 23 me.</p> <p>24 MR. TERUYA: Okay. Why don't we take 25 a break.</p> |
| <p>1 there were places where we tended to disagree.</p> <p>2 Q. Would you have indicated that disagreement in 3 any way in the packages of information that 4 were submitted to the senior credit committee?</p> <p>5 A. More -- more in dialogue, in a question and 6 answer dialogue. If points were brought up 7 that I didn't agree with, I might say so in the 8 dialogue.</p> <p>9 Q. Were the disagreements that you recall about 10 how information was presented to the senior 11 credit committee limited to how information was 12 presented? Or let me rephrase that.</p> <p>13 You mentioned you had some 14 disagreements from time to time with the credit 15 analysts as to information that went to the 16 senior credit committee, and was that limited 17 to how information was presented or do you 18 actually recall some instances where you 19 actually thought information that was presented 20 to the committee was incorrect?</p> <p>21 A. It's -- I would say -- the best way to 22 characterize this in terms -- it's not always 23 just information that's going to the senior 24 credit committee that we would either disagree 25 or agree on, and it's not really so much</p> | <p>1 MS. HACKETT: Okay. Thank you.</p> <p>2 THE VIDEOGRAPHER: We are now going 3 off the record. The time is 10:04 a.m.</p> <p>4 ----</p> <p>5 (There was a recess in the proceedings.)</p> <p>6 ----</p> <p>7 THE VIDEOGRAPHER: We are now going 8 back on the record. The time is now 10:17 a.m.</p> <p>9 MR. TERUYA: I'm going to mark as 10 Exhibit 1701 a document that appears to be a 11 credit agreement by and among Allegheny United 12 Hospitals, St. Christopher's Hospital For 13 Children, Horizon Medical Corporation, and PNC 14 Bank, National Association, dated January 6th, 15 1994, that has Bates Nos. PNC 38124 through 16 169.</p> <p>17 ----</p> <p>18 (Exhibit 1701 marked for identification.)</p> <p>19 ----</p> <p>20 BY MR. TERUYA:</p> <p>21 Q. I'll just ask you to take a look at the 22 document, and I was going to ask you if you 23 recognize it?</p> <p>24 ----</p> <p>25 (The witness reviewed the Exhibit.)</p> |